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GOVERNOR



STATE OF MICHIGAN  
PUBLIC SERVICE COMMISSION  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
DAVID C. HOLLISTER  
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MAR 30 2005

Federal Communications Commission  
Office of the Secretary

J. Peter Lark  
CHAIR

Robert B. Nelson  
COMMISSIONER

Laura Chappello  
COMMISSIONER

March 4, 2005

Via UPS Overnight Mail

Jeffrey J. Carlisle, Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S. W.  
Washington, D. C. 20554

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MAR 30 2005

Federal Communications Commission  
Office of the Secretary

Dear Chief Carlisle:

Re: Clarification Request in the FCC Order on Unbundling Obligations of Incumbent  
Local Exchange Carriers in WC Docket No. 04-313 and CC Docket No. 01-338

The Michigan Public Service Commission (MPSC) requests confirmation on an issue addressed in the Federal Communications Commission's (FCC) February 4, 2005 order on unbundling obligations. This issue relates to batch hot cut procedures. On remand, in light of changed circumstances and guidance received from the D.C. Circuit, the FCC finds no impairment arising from the hot cut process for the majority of mass market lines. The FCC goes on to state that the record indicates that many incumbent local exchange carriers (LECs) are developing further improvements to their hot cut process, through the development of batch hot cut procedures. For example, the FCC states that each of the Bell Operating Companies (BOCs) has developed a batch hot cut process allowing for a competitive LEC to have multiple customer lines converted to competitive LEC networks within a short time. The FCC anticipates that the great majority of migrations occurring pursuant to the transition plan set forth in the order will involve carriers whose hot cut processes were expressly approved in section 271 proceedings, and have implemented batch cut processes that help limit any operational and economic difficulties associated with individualized hot cuts.

The FCC order goes on to describe the different BOC processes. The FCC order in paragraph 211 details SBC's process as follows:

SBC's "Enhanced Daily Process" places no limitations on the number of local service requests that a competitive LEC may submit. Its "Defined Batch Process" allows competitive LECs to order up to 100 hot cuts per day per central office with a standard provisioning interval under two weeks, resulting in 20-25 hot cuts per hour. A "Bulk Projects" process is available for projects with 100 or more lines. BellSouth has also added features to its batch hot cut process that allow after-hours and weekend hot cuts.

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The FCC order states that "SBC has implemented a variety of enhancements to its hot cut processes that will result in lower hot cut NRCs." While some commenters proposed modifications to further improve these processes, the FCC nonetheless concluded that these new hot cut procedures, as described by the BOCs, constitute significant steps that sufficiently respond to concerns about the potential for scalability of hot cuts. The SBC process is the one that impacts Michigan directly.

The MPSC initiated a proceeding on September 30, 2003 in Case No. U-13891 on the Commission's own motion; to investigate and to implement, if necessary, a batch cut migration process. On June 29, 2004 the Commission issued an order adopting an interim batch hot cut process and directed the parties to participate in collaborative discussions related to developing a test plan and conducting a test prior to the Commission adopting a final order on a batch hot cut process. On October 4, 2004 this Commission approved a joint test plan and directed the parties to continue to collaborate further on the migration issues highlighted in the order. On December 21, 2004, this Commission issued a subsequent order revising the batch hot cut process and the rates associated with this process.

On January 6, 2005, the Michigan proceeding on the BHC process was halted by the US District Court, Eastern District of Michigan - Southern District before any final determinations were implemented by this Commission. The Court stated in its conclusion that the MPSC cannot act in a manner inconsistent with federal law and then claim its conduct is authorized under state law. The Court held that "pursuant to the FCC regulation, 47 C.F.R. § 51.319(d)(2)(ii), the MPSC could not establish a batch cut process without first "conclud[ing] that the absence of a batch cut migration process is . . . impairing requesting telecommunications carriers' ability to serve end users" in Michigan, and that the process it adopted would "alleviate [that] impairment." The Court has held that Michigan would be in conflict with the FCC order if it continued with its batch cut migration process.

The batch cut process is the one that SBC proposed but has not been implemented in Michigan. The process has not yet been tested and final costs and prices have not yet been implemented by this Commission because the process was halted by the court. The MPSC would like to continue its efforts to adopt and implement necessary performance metrics and establish final costs and prices for the batch hot cut process. Specifically, we would like to refine the existing hot cut metrics that were adopted in conjunction with the 271 proceedings and adapt the measures to the batch processes. SBC's performance will then continue to be monitored through the currently existing performance monitoring in the 271 arena that has been in place for approximately five (5) years. To this end, the MPSC respectfully requests confirmation that nothing in the FCC's rules preempts, or otherwise interferes with, the state commission's ability to adopt performance metrics for unbundled network elements, including batch hot cuts for migrating unbundled local loops.

Jeffrey J. Carlisle

March 4, 2005

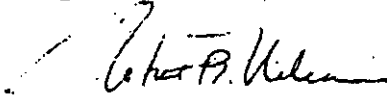
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Thank you for any assistance you can provide to clarify the states role in implementing batch hot cut migration processes.

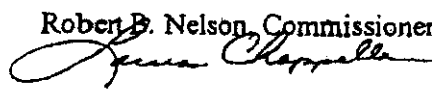
Sincerely,



J. Peter Lark, Chair



Robert B. Nelson, Commissioner



Laura Chappelle, Commissioner  
Michigan Public Service Commission